



# MINUTES

## Charlotte County Board of Zoning Appeals

Wednesday, September 9, 2020 9:00 a.m. - Room 119

Charlotte County Administration Center  
18500 Murdock Circle, Port Charlotte, FL 33948-1094

(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)

### **Board Member:**

Steve Vieira, Secretary  
William Abbatematteo, Vice-Chair  
Larry Fix  
Blair McVety, Chair  
John Doner

### **Staff:**

Shaun Cullinan, Planning/Zoning Official  
Thomas David, Asst. Co. Attorney  
Stacy Bjordahl, Asst. Co. Attorney  
Elizabeth Nocheck, AICP, Sr. Planner  
Diane Clim - Recorder

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### **I. Call to Order**

Chair McVety called the September 9, 2020 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

### **II. Pledge of Allegiance**

Chair McVety led the members and the audience in reciting the Pledge of Allegiance.

### **III. Roll Call**

Roll call was taken; a quorum was present.

### **IV. Swearing In of Those Giving Testimony**

Diane Clim swore in all persons who wished to provide testimony.

### **V. Approval of Minutes**

***ACTION:*** A motion was presented by Mr. Fix and seconded by Mr. Doner to approve the minutes of the August 12, 2020 meeting of the Board of Zoning Appeals which passed with a unanimous vote.

### **VI. Disclosure Statements**

Ex-parte forms indicating site visits concerning the petitions being presented before the September 9, 2020 Board of Zoning Appeals meeting were submitted.

### **VII. Introduction of Staff/Comments**

Chair McVety introduced staff. Shaun Cullinan, Planning and Zoning Official, read the Zoning rules, Asst. County Attorney David and Chair McVety made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

**VIII. New Business**

***The following petitions were advertised on August 25, 2020: SE-20-021, SE-20-025, SE-20-026 and SE-20-027***

**SE-20-021**

Darren Midlane, agent for Life Soils Florida, LLC, is requesting a special exception to allow a commercial composting facility in the Agriculture (AG) zoning district. The property address is **42811 Neal Road**, Punta Gorda, and is described as part of Parcel P1-1, located in Section 19, Township 40 South, Range 26 East.

Shaun Cullinan read into the record the staff report and staff findings for the petition.

**Applicant Presentation**

**Robert Berntsson, Esq., agent for the applicant, said he was sworn in.** Mr. Berntsson said they accept Mr. Cullinan as an expert. He disclosed his own credentials. They agree with the staff report and findings. They accept the conditions.

**Darren Midlane, agent for Life Soils Florida, LLC, said he was sworn in.** Mr. Midlane said he will go through the power point presentation. It is an overview and to give you some understanding of what they do and how they do it. Life Soils was formed 4 years ago. He has been involved with composting and compost use for over 30 years. Life Soils moves and sells compost all over the State. He said Florida is a very sandy soil. They are aware of nutrient runoff and blue-green algae blooms. Compost holds more water. He discussed the physics of the temperature generation in the compost pile and how they do what they do, this way the compost pile does not get too hot and start fire. He said their finished product is very good for crops and agriculture. Using this product requires less use of irrigation and fertilizers. All this helps reduce runoff of other products.

***Chair McVety opened the meeting to Public Hearing.***

**Public Input**

**Dr. Eric Brown, Director of Agronomy, said he was sworn in.** Dr. Brown said compost is a good thing for our society. He is a soil chemist and plant specialist and has been using compost for years and it benefits our soils and plants. We need more facilities producing more compost so we can turn that material back into something that can be beneficial to our soils and plants. Most products are buried or burned. But when we compost and apply it to soils, it benefits it and reduces the need for irrigation.

**Cathy Shoe, was sworn in.** Ms. Shoe said she started working with Life Soils 2 years ago as a master gardener. They ran a study on residential lawns and saw how this product worked. She said the soil samples after using Command, this product from Life Soils, were so good, they didn't even need to use the irrigation any more. Even her vegetable plants benefited from this command product, and there is no smell or odor.

**Janine Ficket, who said she was sworn in,** said her concern is spontaneous combustion. She asked what do they have for fire compression?

**Mr. Midlane** said we have a fire prevention plan which was submitted with the application. This process is a managed process and they do not get fires, but they are prepared if a spontaneous combustion started, and they have a way of controlling this, so they do not run into that problem.



**Mr. Abbatematteo** asked what temperatures do you max out at and what temperature does it take to start a fire?

**Mr. Midlane** said around 180-185 Fahrenheit is when the process will change and start the fire. They maintain a degree of 150 but have gone up to 160.

**Gerry Dedy, who is a citrus caretaker out of Highlands and Hardy County, said he was sworn in. Mr. Dedy** said he has been using Command 4 years. He said he has cut back 25-30% irrigation. This is a huge savings between man power and water. He is also able to cut out dry and liquid fertilizers. He is saving at least \$500 or more per acre. He said Command is a great product.

**Jeff Brown, territory manager in Naples, dealing mostly with golf courses, was sworn in. Mr. Brown** said he has been using Command on golf courses for 4 years now and the benefits are not using harsh chemicals, reduction of water and reduction of pesticides. Taking waste products and transforming it into this product with all the benefits, cannot be beat.

**Kim Hite, who was sworn in,** said she has been involved with a water project going on near her house and she wanted to know how is this available to people?

**Mr. Midlane** said the product is available to anyone. They can ship it. Right now, they have a facility in northern Florida, but would like one here in Charlotte County.

*There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. Doner. The public hearing was closed with a unanimous vote.*

Shaun Cullinan presented the recommended conditions for the petition.

#### **Board Member Comments and Questions**

**Mr. Vieira** asked if there are any improvements to Bermont Road for access to this facility.

**Mr. Cullinan** said that is something transportation will be looking at. This will come up during site plan review.

***ACTION: A motion was presented by Larry Fix and seconded by John Doner that Petition SE-20-021 be APPROVED based on the Community Development Staff Report dated September 1, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with ten conditions recommended by staff.***

***Motion was approved with a unanimous vote with the following ten conditions:***

1. This special exception is to allow a High Impact Waste Facility, consisting of a composting facility, and extends only to the land included in the Concept Plan and legal description submitted with this application.
2. The Concept Plan submitted by the applicant, as part of the petition, is for illustrative purposes only. All applicable regulations of County Code shall apply to this development, including preliminary and final Site Plan Review and approvals.

3. The applicant shall develop and maintain the High Impact Waste Facility in compliance with Section 3-9-70.
4. The proposed High Impact Waste Facility shall be operated in accordance with the Operations Plan submitted with the special exception application (Exhibit F-1a). Changes to the Operations Plan may be approved during the Site Plan Review process in order to comply with requirements identified during Site Plan Review or these conditions of approval.
5. Operation of the composting facility may not be established until all improvements and the financial assurance requirements set forth in Section 3-9-70(e) are completed and a Certificate of Completion has been issued.
6. Truck traffic to or from the composting facility shall not be allowed to use Neal Road.
7. A type "C" Landscape Buffer, with a five-foot high berm, shall be constructed and planted around the entire perimeter of the compost facility.
8. The applicant shall obtain all necessary permits and approvals, as applicable to this development, including but not limited to, street access, paving, storm water management, and landscape plan approval.
9. This Special Exception is granted for a term of five years from the date it receives approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
10. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

The 4<sup>th</sup> Item on the agenda – SE-20-027 was heard next

**SE-20-027**

Katherine Burke, agent for Florida Fish and Wildlife Conservation Commission, is requesting a special exception to allow a water reservoir in the Agriculture (AG) zoning district. The property address is **33159 Oil Well Road**, Punta Gorda, and is described as Parcels P1-2, P1-2-1 and P2-1, located in Section 22, Township 42 South, Range 24 East; and Parcels P1, P2, P1-4, located in Section 27, Township 42 South, Range 24 East; and Parcels P1, P2, P1-1, located in Section 34, Township 42 South, Range 24 East.

Shaun Cullinan read into the record the staff report and staff findings for the petition.

**Applicant Presentation**

**Susan Ray, works for HDR, said she is a licensed, registered engineer in the State of Florida and said she was sworn in. Ms. Ray** said she is the project manager for this project and she is representing the Florida Fish and Wildlife agency. **Ms. Ray** said the two structures in the middle of the site are two old barns. One is a hay barn and the second barn had a kitchen in it and cattle pens. This was previously a cattle pasture. There is also a pump station, and they have had environmental assessments done and are being removed and closing them out. The purpose of the project, on the right side is the Babcock Webb management area. It experiences a lot of water. It hinders the wetlands and vegetation on site. This project will take the extra surface water and hold it in this impoundment and then in the dry season, releases it to the south whenever Prairie pine preserve needs water in the dry season. It will



help Babcock restore the wetlands. The pump station is located in the northeast corner adjacent to Babcock Webb. It is on automatic float. We are only after surface water, so the floats are set to operate at 24.5. We are taking excess surface water. These are adjustable in case there is a dry season. She explained other pumps and their purpose. She said there is a berm around the whole area. Inside the berm (in the project area) we will have a maintenance road.

**Assistance Co. Attorney David** asked about her educational background and how long she has been working in this industry.

**Ms. Ray** said she has been a project manager for almost 35 years. Her first 15 years were in the air space industry and the rest has been in the environmental industry.

**Mr. David** asked do you know how this project came about and how it is financed?

**Ms. Ray** said part of how it came about is the Charlotte Harbor Flatwoods initiative. This is all part of the overall concern of returning the natural flows the way they are supposed to be on this side of the state. When I-75 was put in, that basically changed the way water flowed to the south. This is helping the area hold water and they have other areas they want to restore waters. The financing is from the Florida Fish and Game Commission. The State bought the land and they are trying to get a restore grant to be able to fund the construction.

**Mr. David** asked are you required to maintain any wells or anything outside of the property to make sure you are not doing anything to neighboring properties?

**Ms. Ray** said the way this is set up, in each of the 4 corners upon the property, there is a well that will be monitored. There are also wells on the Babcock Webb property to monitor what is going on there for the restoration.

**Mr. David** said so this will be going on for years?

**Ms. Ray** said yes. With any reservoir, you are always monitoring.

**Mr. Cullinan** asked for the Charlotte Flatwoods initiative, how long has that project been going on identifying these projects to help restore that?

**Ms. Ray** said Kim would be better to answer that.

**Kim Vikoski, Sr. project manager at the South Florida Water Management district** said she is a CEP and has been working on environmental regulatory and restoration issues for 29 years and she has been sworn in. She said the water management district has been contracted through the Fish and Wildlife Commission to assist with permitting of this project. That is my involvement. It is a Fish and Wildlife project, it is owned by them and will be operated by them. She is also the coordinator of the Charlotte Harbor Flatwood initiative which was an initiative started in the early to mid-2000's. In the last 10 years, they are working on a big picture, regional hydrological restoration plan. This plan includes dealing with the fact that between US 41, I-75, agriculture berms, residential berms – many man alterations to the area, the flows from the headwater of Babcock Webb, used to flow in a southwesterly sheet flow. It went from the northern portion of Babcock Webb over to the Yucca pens and out to the Charlotte Harbor. Because of all the alterations, that has not occurred and water has backed up on Babcock Webb and all of that area is inundated based on those blockages. Our goal as the Charlotte Harbor flatwoods,

which our partners are SW Florida Water Management district, South FL Water Management district, because this area covers both of those political territories, DEP is part of our members, The Coastal and Heartland national estuary partnership and we have numerous NGO's. Many residents attend our meetings. The goal is to get the water that is backed up on Webb, take some of that stacked water and store it in the reservoir and we can help those downstream.

**Mr. Cullinan** asked her to talk about studies they have done what might impact surrounding areas?

**Ms. Vikoski** said Sue would be better to speak to the modeling, but we have done extensive modeling in this area, and that is one reason we have acquisition to lands to the west. We are in the middle of a 2 year study for additional modeling to look at flows to the west, this was through grant money. We have done modeling as part of I-75 – we built upon their model, which looked at the regional water issues and we built upon that model over the last several years to ensure we did not have any off site impacts.

**Mr. Cullinan** asked if there would be any water drawn out below surface from any aquifers?

**Ms. Vikoski** said no.

***Chair McVety opened the meeting to Public Hearing.***

#### **Public Input**

**Kim Hite** said she is confused because there are two separate water projects going on right now that are right next to each other. She's curious, a lot of the things they are claiming are the same things that SW aggregates are claiming, that they are doing with their project as well. She would like to clarify there are 4 monitoring wells around the perimeter of the property and SW Aggregates have 26 and at the meeting last night, they needed to supply more to prove there will not be any negative off site impacts.

**Ms. Ray** said one of the things during the design was an extensive geotechnical analysis and part of this is to determine how much seepage goes off site to determine how much water comes on site. What the model ended up showing, is there is a seepage canal around the entire outside of the reservoir. That seepage canal is about 150 wide and it breaches the lime stone layer that is consistent across the site. By doing that, any seepage you get from the reservoir almost all of it is captured by the seepage canal. When you have 4 feet of water in the reservoir, we are not sending water off site. We are not flooding neighbors or impacting any one. The same is true when you look at it the other way. That is not drawing water from off site as well, because the direction of flow is from the higher head which is the 4 feet of water in the reservoir to the seepage canal. That lead to how many wells do we need because with that modeling, you can tell this site is only about 650 acres, so the zone of influence doing this at the 4 corners seems to be sufficient. We can monitor what the levels are doing. All pumps are set on float switches which can all be adjusted.

**Mr. Abbatematteo** said the reservoir will be 535 acres and the site is 669 acres and asked if there has to be drainage ditches and the offset.

**Mr. Cullinan** said the 20% of the site that is for all the berming, canals on the side, the ancillaries. The actual water storage will be interior to that (the 80%). The berms don't have setbacks.

**Sheila Palmore, who is a neighbor in the area, said she was sworn in.** **Ms. Palmore** said she owns property right behind this site. She said her husband has been doing water and waste water from the prison around the corner, for 12 years. That berm was only 5 feet off the prison property. We have not



had enough rain this year to even fill her pond. There is rain out there in Charlotte County, but not in her area. People in this area depends on rain to fill their ponds for livestock. She does not have enough water to last through out the winter for her livestock. What happens when we don't have rain? There is a gun range which brought in about 200 loads of dirt and they are changing the graphics and waterflow. They are in between a perfect storm for all of us to not have water. She wants to know why these two projects are not working together to see what each other is doing. They will be effected and they are very concerned. Her husband wants to know, the summer would have devastated everyone's well, including the prison, if they had collected the water that flowed. No checks and balances between the 2 projects to keep them from destroying the water table. They do not want to see this go in.

**Mr. McVety** asked about the other project.

**Mr. Cullinan** said this current project would ship the water to the flatlands preserve land. Southwest aggregates is a private company and they are selling the water they are storing.

**Carlton DePriest, said he was sworn in.** **Mr. DePriest** said they say there are no housing in this area, but there are 3 driveways and houses and they will not have a way in or out if this project goes in. He lived in this area 32 years and they could cut the dyke out and dig a ditch all the way through. Now the water is getting drained off his property. He said there are big machines coming in chopping out all the trees you want to protect. There's scrub jay in this area, and they won't be here soon.

***There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. Vieira. The public hearing was closed with a unanimous vote.***

**Ms. Ray** said the only intake of water for the reservoir is from Babcock Webb. There had been previously water was going to be taken from the north side of Oil Well Road and brought into the project. This is no longer in the project. Where Oil Well Road intersects with our entrance, is where we are extending the culverts that are there and making the road wider for bigger equipment can get into the site. That is all we are doing.

There was some discussion about how the water will get from Babcock Webb to this reservoir.

Shaun Cullinan presented the recommended conditions for the petition.

#### **Board Member Comments and Questions**

***ACTION: A motion was presented by Larry Fix and seconded by John Doner that Petition SE-20-027 be APPROVED based on the Community Development Staff Report dated September 1, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with five conditions recommended by staff.***

***Motion was approved with a unanimous vote with the following five conditions:***

1. This special exception is to allow a water control reservoir and extends only to the land included in the Concept Plan and legal description submitted with this application.

2. The Concept Plan submitted by the applicant, as part of the petition, is for illustrative purposes only. All applicable regulations of County Code shall apply to this development, including the Stormwater Plan Review process.
3. The applicant shall obtain all necessary permits and approvals, as applicable to this development, including but not limited to, street access, paving, and storm water management.
4. This Special Exception is granted for a term of five years from the date it receives approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
5. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

**SE-20-025**

Janet Cartee is requesting a special exception to allow a Major Home Occupation, consisting of a dog grooming business in the Residential Single Family-3.5 (RSF-3.5) zoning district. The property address is **440 McCabe Street**, Port Charlotte, and is described as Lot 18, Block 2335, of Port Charlotte Subdivision, sub-section 38, located in Section 05, Township 40 South, Range 21 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

**Applicant Presentation**

**Janet Cartee, applicant, said she was sworn in.** Ms. Cartee said Ms. Nocheck gave the entire presentation, she agrees with the staff report and would answer any questions. She said it will be simple, no more than 4 dogs a day. Only 4 days a week. She does not want a sign. She would like a dog shaped mailbox.

**Mr. Doner** asked if you are working on a dog, and the customer does not come back for hours, does the dog remain in the house?

**Ms. Cartee** said yes. In the shop area. Her yard is fenced, so there is safety coming in, but no dogs can get lose. This is small dogs only.

**Mr. Vieira** asked which four days a week you envision?

**Ms. Cartee** said Monday, Tuesday, Wednesday and Friday is her goal. Maybe in one year, 3 days.

**Chair McVety opened the meeting to Public Hearing.**

**Public Input**

No one spoke for or against this request.

*There being no further requests to speak for or against the petition, Mr. Vieira moved to close the public hearing, seconded by Mr. Fix. The public hearing was closed with a unanimous vote.*



Elizabeth Nocheck presented the recommended conditions for the petition.

**Board Member Comments and Questions**

There was discussion about possibly putting the hours in the motion but decided to just leave it as is. Staff has a condition for Monday through Friday and she only wants 4 days.

***ACTION: A motion was presented by Steve Vieira and seconded by Larry Fix that Petition SE-20-025 be APPROVED based on the Community Development Staff Report dated September 2, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with four conditions recommended by staff.***

***Motion was approved with a unanimous vote with the following four conditions:***

1. This special exception, as approved by the Board of Zoning Appeals, is to allow a major home occupation, consisting of a dog grooming business, as an accessory use to the existing single-family residence.
2. This special exception shall be conducted according to these conditions as well as all standards and conditions set forth in Section 3-9-74, Home Occupations, of the Land Development Regulations, as may be amended.
3. Days of operation shall be limited to Monday through Friday.
4. Any major modifications, such as a change in location, scope of services, or change in the type of home occupation conducted, shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

**SE-20-026**

Jason and Ashley Eargle are requesting a special exception to allow a Major Home Occupation, consisting of a dog breeding business in the Residential Single Family-3.5 (RSF-3.5) zoning district. The property address is **18625 Ohara Drive**, Port Charlotte, and is described as Lot 15, Block 5291, of Port Charlotte Subdivision, sub-section 101, located in Section 32, Township 40 South, Range 22 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

**Mr. Abbatematteo** asked the Special Exception items listed in the Code, do not show dog breeding. How is this allowed in the Code?

**Ms. Nocheck** said we have done dog breeding before. We have also done monkeys. This falls under other uses determined by the Zoning Official. There is a permitted accessory use allowing having the puppies/kittens, but you can't sell them.

**Mr. Vieira** asked if they can change the breed of dog they want to have?

**Asst. Co. Attorney David** said I don't believe we are specifying they have to breed only this type of dog. Their application says what type, but it would be allowed for any type. He said referring to the number, it can turn into a nuisance if there are too many, but that is not the situation we have here.

**Mr. Doner** said he thought he understood the puppies might be purchased yet kept by the dog breeding business until the customer is ready to take the dog. In that case, it is not personal ownership if the owner is boarding a dog.

**Asst. Co. Attorney David** said it would depend on when the transaction occurred. This can turn into a complicated contract. He said a puppy would not leave until wended, therefore he would argue boarding is implied.

#### **Applicant Presentation**

**Jason Eargle, applicant, said he was sworn in.** **Mr. Eargle** said they are a home schooling family of 9. A breeding business started in North Carolina 4 years ago, and since then has expanded. They moved to Charlotte County in November 2019. At that time, they were hobby breeders with only a couple of litters a year. During the Covid pandemic, he lost his job. They could not get unemployment due to an interstate claim. The dog breeding business would help them out during this time. They take care of the dog waste. They live in this house and yard, so they keep it clean. They are responsible dog owners. The dogs are inside most of the time, but occasionally go out and walk. Goldendoodles are not an aggressive breed. They are not seeking a large scale business. They will only have a few litters per year. They had a litter of puppies in May, 11 puppies and none of the neighbors knew (except the 2 next to us) and no complaints were called in to the County. Once they realized they needed a special exception, they applied. Their dogs are part of their family. All the dogs receive top care. Many times, the people who buy the puppies do so over the internet. The dogs are never left alone or unsupervised.

**Mr. Abbatematteo** asked when the dogs go out for play time, how many go and for how long?

**Ashley Eargle, applicant, said she was sworn in.** **Ms. Eargle** said for the majority of the year, they only have their 3 dogs, so they take them out early in the morning, they play in the yard and we bring them back inside. They also do this at night. Sometimes they take their dogs to the Charlotte Harbor or walk them around the neighborhood. The majority of time, they are inside. When we have a litter, we do take them out to get some sun, and feel the grass on their feet. They also learn to go potty outside, but we never leave them outside. We do not leave the dogs out, no kennels, it is too hot outside.

**Ms. Nocheck** asked about how much to do you charge for a puppy?

**Ms. Eargle** said between \$2,500 to \$3,000. These are valuable dogs. Some have gone for emotional support animals, therapy dogs. Some are trained in seizure detection. If they are allowed to do this, they will not have a spot open until next summer.

**Mr. Doner** said some dogs are noisier than others. Can you tell the neighbors what they might expect?

**Ms. Eargle** said these dogs are not noisy or bark a lot. They will bark if someone comes to the door. They don't bark outside often.



***Chair McVety opened the meeting to Public Hearing.***

**Mr. Nocheck** said she received 2 letters that are in the staff report and has received 2 additional letters after the staff report was finalized. She handed them out to the Board members.

**Public Input**

**Tom Geist, said he was sworn.** **Mr. Geist** said everyone loves the puppies but this special exception would allow any breed. It is a business. He thinks 9 people and 9 dogs in a 1200 sq. ft. house is too much. He lives on Ohara down the road.

**Ms. Nocheck** said the letter from Clark and MaryKay McCaw will be Exhibit F3a and b. The letter from Norman Maxwell will be F4.

**MaryKay McCaw, who said she was sworn in, lives on Ohara Drive about 5 houses away.** **Ms. McCaw** said they wanted a quiet residential area to retire. They found it. Now there might be a business in the neighborhood. In addition to her letter, she handed in some information regarding noise. They are strongly against having any business in their residential neighborhood.

**James Tierney, said he was sworn in.** **Mr. Tierney** said his property is across the water and sound carries over the water.

**Mr. McVety** asked if he can hear the dogs they have now?

**Mr. Tierney** said no, he can't pick them out. He loves dogs but thinks it will bring noise.

**James Kasica was sworn in.** **Mr. Kasica** said he wanted a better understanding on the conditions. Last year he could hear a howling noise. He wondered what this might turn into.

**Iris Stec, she said she was sworn in.** **Ms. Stec** said she knows the breed, has a friend who has one. They are lovely animals, however, she is talking about an 800 sq. ft. space in the house for a litter of puppies. She is concerned about a puppy mill. Also run off from their back yard into the waterway.

**Sue Simmons, who lives across the street, said she was sworn in.** **Ms. Simmons** said she has two concerns. One was noise and other is if this is approved, how many more people will want to breed a dog if the puppy gets \$2,500. She is also concerned about the lake behind them.

**Janine Fickett, who lives in the area, said she was sworn in.** **Ms. Fickett** said she owns three dogs. A large part of the day is following her dogs in the backyard and picking up after them. She is also concerned about the water and fecal runoff.

***There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. Abbatematteo. The public hearing was closed with a unanimous vote.***

**Ms. Eargle** said most people purchase the dogs on line, but if they stop by, it's usually on a Saturday or Sunday. They do not have a lot of traffic coming to see the dogs. She said she has seen people down the canal throw their dog poop in the water. They do not do that. They keep the yard clean because their children also play in the yard.

Elizabeth Nocheck presented the recommended conditions for the petition.

**Board Member Comments and Questions**

There was some discussion about having a home based business in the residential area.

***ACTION: A motion was presented by William Abbatematteo and seconded by Steve Vieira that Petition SE-20-026 be DENIED based on the Community Development Staff Report dated September 2, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS NOT MET the required criteria for the granting of the Special Exception.***

***Motion did not pass – Mr. Abbatematteo and Mr. Vieira voted for the denial  
Mr. McVety, Mr. Doner and Mr. Fix voted against the denial***

***A motion was presented by Larry Fix and seconded by John Doner that Petition SE-20-026 be APPROVED based on the Community Development Staff Report dated September 2, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with six conditions recommended by staff and adding only Goldendoodles are the type of dog bred.***

***Motion was approved with a unanimous vote with the following seven conditions:***

1. This special exception, as approved by the Board of Zoning Appeals, is to allow a major home occupation, consisting of a dog breeding business, as an accessory use to the existing single-family residence.
2. This special exception shall be conducted according to these conditions as well as all standards and conditions set forth in Section 3-9-74, Home Occupations, of the Land Development Regulations, as may be amended.
3. Detailed records shall be kept for a minimum of seven years for each dog or puppy ever kept at this residence, including but not limited to: name, address, and contact information of date for each customer who purchases a puppy; how animals are identified (e.g. tags, markings, names, microchip, etc.), birth dates, dates of sale, and a photograph of the animal. These records shall be made available to Charlotte County Animal Control Officers upon request.
4. Inspections shall be allowed by Charlotte County Animal Control Officers without notice or in response to a complaint.
5. There shall be no outdoor dog kennels.
6. Only goldendoodle dogs shall be bred.
7. Any major changes or additions to this special exception, including a change of location, scope of services, or change in the type of major home occupation conducted, shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.



IX. Public Comments –

Iris Stec said the County should regulate how many animals are in the house, not during breeding but does not want to hear of puppy mills.

X. Staff Comments –

Ms. Nocheck said we have 2 or 3 items for next month.

XI. Member Comments

Mr. McVety said he still drives by the concrete crushing place in Punta Gorda that I have asked several times about getting the fence up. Ms. Waksler said she would take care of it when they were here the second time for a petition.

Mr. Cullinan said he will follow up. They have a new owner but this Board can rescind the approval. He said they can send them a letter.

Asst. Co. Attorney David said maybe we can say we recognize you have a new ownership but this obligation is part of the variance or special exception.

XII. Next Meeting

*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, October 14, 2020 at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 12:15 p.m.

Respectfully submitted,  
Diane Clim, Recorder  
/dlc

  
\_\_\_\_\_  
Blair McVety, Chair

Approval Date: \_\_\_\_\_

*10-14-2020*